

By: Ogg

S.J.R. No. 3

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to denial of bail to a person accused of a felony in certain circumstances.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Article I, Section 11a of the Texas Constitution, be amended to read as follows:

"Section 11a. MULTIPLE CONVICTIONS; DENIAL OF BAIL. Any person (1) accused of a felony less than capital in this State, who has been theretofore twice convicted of a felony, the second conviction being subsequent to the first, both in point of time of commission of the offense and conviction therefor, (2) accused of a felony less than capital in this State, committed while on bail for a prior felony for which he has been indicted, or (3) accused of a felony less than capital in this State involving the use of a deadly weapon after being convicted of a prior felony [may], after a hearing, and upon evidence substantially showing the guilt of the accused of the offense in (1) or (3) above or of the offense committed while on bail in (2) above, may [be] be denied bail pending trial, by a district [any] judge ~~[of a court of record or magistrate]~~ in this State, if said order denying bail pending trial is issued within seven calendar days subsequent to the time of incarceration of the accused; provided, however, that if the accused is not accorded a trial upon the accusation under (1) or (3) above or the accusation and indictment used under (2) above within sixty (60) days from the time of his incarceration upon the

1 ~~accusation~~ [~~such--charge~~], the order denying bail shall be
2 automatically set aside, unless a continuance is obtained upon the
3 motion or request of the accused; provided, further, that the right
4 of appeal to the Court of Criminal Appeals of this State is
5 expressly accorded the accused for a review of any judgment or
6 order made hereunder, and said appeal shall be given preference by
7 the Court of Criminal Appeals."

8 Sec. 2. The foregoing constitutional amendment shall be
9 submitted to a vote of the qualified electors of this state at an
10 election to be held on the first Tuesday after the first Monday in
11 November, 1978, at which election the ballots shall be printed to
12 provide for voting for or against the proposition: "The
13 constitutional amendment permitting denial of bail to a person
14 charged with a felony offense who has been theretofore twice
15 convicted of a felony offense, or charged with a felony offense
16 committed while that person was admitted to bail on a prior felony
17 indictment, or charged with a crime involving the use of a deadly
18 weapon where there is evidence such person has been convicted of a
19 prior felony offense; providing for a 60-day limit to that person's
20 incarceration without trial; and providing for that person's right
21 of appeal."

By: Ogg, Hance

S.J.R. No. 3

(In the Senate - Filed November 8, 1976; January 11, 1977, read first time and referred to Committee on Jurisprudence; March 16, 1977, reported adversely, with favorable Committee Substitute; March 16, 1977, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.J.R. NO. 3

By: Meier

SENATE JOINT RESOLUTION

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Sec. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on the first Tuesday after the first Monday in November, 1978, at which election the ballots shall be printed to provide for voting for or against the proposition: "The constitutional amendment permitting denial of bail to a person charged with a felony offense who has been theretofore twice convicted of a felony offense, or charged with a felony offense committed while that person was admitted to bail on a prior felony indictment, or charged with a crime involving the use of a deadly weapon where there is evidence such person has been convicted of a prior felony offense; providing for a 60-day limit to that person's incarceration without trial; and providing for that person's right of appeal."

* * * * *

Austin, Texas
March 16, 1977

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Jurisprudence, to which was referred S.J.R. No. 3, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute adopted in lieu thereof do pass and be printed.

Schwartz, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 2, 1977

Honorable A. R. Schwartz, Chairman
Committee on Jurisprudence
Senate Chamber
Austin, Texas

In Re: Senate Joint Resolution No. 3
By: Ogg

Sir:

In response to your request pursuant to Senate Rule 94, Subsection (g), this office finds the fiscal implications of Senate Joint Resolution No. 3 (proposing an amendment to the Constitution of the State of Texas permitting the denial of bail to a person charged with a felony offense) to be as follows:

Other than the possibility that local jail populations could increase, no fiscal implication or additional cost to the state, or statewide impact on units of local government of the same type or class, attributable to the Senate Joint Resolution, should it be approved by the electorate, is anticipated except for the cost of publication which is estimated at \$52,500 in fiscal year 1979.



Thomas M. Keel
Director

Source: LBB Staff.

By Ogg

S.J.R. No. 3

Substitute the following for S.J.R. No. 3

By Meier

C.S.S.J.R. No. 3

SENATE JOINT RESOLUTION

1 proposing a constitutional amendment relating to denial of bail to a person
2 accused of a felony in certain circumstances.

3 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 Section 1. That Article I, Section 11a, of the Texas Constitution, be
5 amended to read as follows:

MULTIPLE CONVICTIONS; DENIAL OF BAIL.

6 "Section 11a. ²Any person (1) accused of a felony less than capital in
7 this State, who has been theretofore twice convicted of a felony, the second
8 conviction being subsequent to the first, both in point of time of commission
9 of the offense and conviction therefor, (2) accused of a felony less than
10 capital in this State, committed while on bail for a prior felony for which he
11 has been indicted, or (3) accused of a felony less than capital in this State
12 involving the use of a deadly weapon after being convicted of a prior felony
13 [may], after a hearing, and upon evidence substantially showing the guilt of
14 the accused of the offense in (1) or (3) above or of the offense committed while
15 on bail in (2) above, ⁵may be denied bail pending trial, by a district [any] judge
16 [of-a-court-of-record-or-magistrate] in this State, if said order denying bail
17 pending trial is issued within seven calendar days subsequent to the time of
18 incarceration of the accused; provided, however, that if the accused is not
19 accorded a trial upon the accusation under (1) or (3) above or the accusation and
20 indictment used under (2) above within sixty (60) days from the time of his
21 incarceration upon the ²accusation [such-charge], the order denying bail shall
22 be automatically set aside, unless a continuance is obtained upon the motion or
23 request of the accused; provided, further, that the right of appeal to the
24 Court of Criminal Appeals of this State is expressly accorded the accused for a
25 review of any judgment or order made hereunder, and said appeal shall be given
26 preference by the Court of Criminal Appeals."

27 Sec. 2. The foregoing constitutional amendment shall be submitted to a

C.S.S.J.R. No. 3

House
Am. #
(1)

1 vote of the qualified electors of this State at an election to be held on the
2 first Tuesday after the first Monday in November, ¹⁹⁷⁷~~1978~~, at which election the
3 ballots shall be printed to provide for voting for or against the proposition:

4 "The Constitutional amendment permitting denial of bail to a person
5 charged with a felony offense who has been theretofore twice convicted of a
6 felony offense, or charged with a felony offense committed while that person
7 was admitted to bail on a prior felony indictment, or charged with a crime
8 involving the use of a deadly weapon where there is evidence such person has
9 been convicted of a prior felony offense; providing for a 60-day limit to that
10 person's incarceration without trial; and providing for that person's right
11 of appeal."
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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 2, 1977

Honorable A. R. Schwartz, Chairman
Committee on Jurisprudence
Senate Chamber
Austin, Texas

In Re: Senate Joint Resolution No. 3
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Sir:

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Thomas M. Keel
Director

Source: LBB Staff.

Mar. 17 1977 Engrossed
Patsy Saw
Engrossing Clerk

By: Ogg

S.J.R. No. 3

SENATE JOINT RESOLUTION

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15 convicted of a felony offense, or charged with a felony offense
16 committed while that person was admitted to bail on a prior felony
17 indictment, or charged with a crime involving the use of a deadly
18 weapon where there is evidence such person has been convicted of a
19 prior felony offense; providing for a 60-day limit to that person's
20 incarceration without trial; and providing for that person's right
21 of appeal."

COMMITTEE REPORT

The Honorable Bill Clayton
Speaker of the House of Representatives

5/4/77
(date)

Sir:

We, your COMMITTEE ON CONSTITUTIONAL AMENDMENTS , to whom was referred S.J.R. 3
have had the same under consideration and beg to report back with the recommendation that it (measure)

- () do pass, without amendment.
- (X) do pass, with amendment.
- () do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested on 4/6/77 and is attached as part of this report.
(date)

Author's fiscal statement attached.

~~The Committee recommends that this measure be placed on the (Local / Consent) Calendar.~~

This measure (X) proposes new law.
() amends existing law.

House Sponsor of Senate Measure HUBENAK

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Von Dohlen	✓			
Jones	✓			
Bryant	✓			
Clark, B.	✓			
Close	✓			
Hendricks			✓	
Johnson		✓		
Robbins	✓			
Schieffer	✓			

Total: 7 aye
1 nay
1 present, not voting
0 absent

Tina Von Dohlen
CHAIRMAN
Reynolds
COMMITTEE COORDINATOR

BILL ANALYSIS

Background Information

Under the present state constitution, persons accused of a crime have a right to bail pending trial except in two specified instances. The first is where a capital crime has been alleged and the second is where a person is accused of a felony and has twice before been convicted of a felony.

Currently, persons can commit an offense, be indicted, make bond, and then be free to commit other offenses upon which they may be indicted and continue to make bond until a final conviction is obtained and he is incarcerated. It is not uncommon that several offenses may be committed between the first offense and incarceration.

The proposed amendment will expand the basis on which a person can be denied bail pending trial. The bail provision of the United States Constitution has been interpreted to allow bail to be denied under certain circumstances.

Purpose of the Resolution

To propose a constitutional amendment relating to denial of bail to persons accused of a felony under certain circumstances.

Section-by-section Analysis

Section 1. Amends Article 1, Section 11 (a) of the Constitution to provide the following:

1. Adds the following instances to those where a person may be denied bail:
 - a) where the person is accused of a felony less than capital committed while on bail for a prior felony for which he has been indicted; or
 - b) where the person is accused of a felony less than capital involving the use of a deadly weapon after having been convicted of a prior felony.
2. Provides that where a hearing has been held and proved the instances in (a) or (b) above, a District Judge may issue an order denying bail if the order denying bail pending trial is issued within 7 calendar days subsequent to the time of incarceration of the accused.
3. Provides that the accused may appeal the order denying bail to the Court of Criminal Appeals and that said appeal shall be given preference by the Court.

Section 2. Provides that the constitutional amendment shall be submitted to the voters in the general election held on the first Tuesday after the first Monday in November, 1977.

Summary of Committee Action

Public notice having been posted in accordance with Rule V, Section 14, the committee considered S.J.R. 3 in public hearing on April 20, 1977. After receiving public testimony, the measure was referred to subcommittee.

The subcommittee met to consider S.J.R. 3 in formal meeting on April 27, 1977. The subcommittee voted to report the resolution back to the committee favorably without amendments.

The committee received the subcommittee report in a public hearing on May 4, 1977 and voted to report the resolution favorably to the House with 1 amendment by a vote of 7 ayes, one nay, and one present not voting.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 6, 1977


Honorable Tim Von Dohlen, Chairman
Committee on Constitutional Amendments
House of Representatives
Austin, Texas

In Re: Senate Joint Resolution No. 3,
as engrossed
By: Ogg

Sir:

In response to your request pursuant to House Rule V, Section 28, this office finds the fiscal implications of Senate Joint Resolution No. 3, as engrossed (proposing a constitutional amendment relating to denial of bail to a person accused of a felony in certain circumstances) to be as follows:

Other than the possibility that local jail populations could increase, no fiscal implication or additional cost to the state, or statewide impact on units of local government of the same type or class, attributable to the Senate Joint Resolution, should it be approved by the electorate, is anticipated except for the cost of publication which is estimated at \$52,500 in fiscal year 1979.


Thomas M. Keel
Director

AMENDMENT NO. 1

BY: Bryant

Amend S.J.R. No. 3 by deleting the term "1978" on line 11,
page 2 and substituting therefore the term "1977".

House
am. #1

MAY 11 1977
Date _____
Read and Adopted

Betty Messing

Chief Clerk
House of Representatives

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 6, 1977


Honorable Tim Von Dohlen, Chairman
Committee on Constitutional Amendments
House of Representatives
Austin, Texas

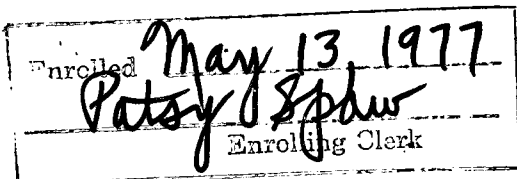
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1006
S.J.R. No. 3

President of the Senate

Speaker of the House

I hereby certify that S.J.R. No. 3 was adopted by the senate on March 17, 1977, by the following vote: Yeas 27, Nays 1, one paired vote; May 13, 1977, senate concurred in house amendment by the following vote: Yeas 27, Nays 0.

Secretary of the Senate

I hereby certify that S.J.R. No. 3 was adopted by the house, with amendment, on May 11, 1977, by the following vote: Yeas 106, Nays 36, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor

SENATE JOINT RESOLUTION

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Secretary of the Senate

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Chief Clerk of the House

Approved:

Date

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
.....4:30 P.M.....O'CLOCK

Governor

MAY 26 1977

Mark White
.....
Secretary of State

Filed w/o signature

Effective: to be voted on 11-8-77

Proposing an amendment to the Constitution of the State of Texas
permitting the denial of bail to a person charged with a felony
offense; etc.

11-8-76 Filed with the Secretary of the Senate
JAN 11 1977 Read, referred to Committee on JURisprudence
Reported favorably.
MAR 16 1977 Reported adversely, with favorable Committee Substitute; Committee Substitute
read first time.
Ordered not printed.
MAR 17 1977 Senate and Constitutional Rules to permit consideration suspended by
unanimous consent
To permit consideration, reading and passage, Senate and Constitutional Rules
suspended by vote of 27 yeas, 1 nays.
MAR 17 1977 Read second time and { ordered engrossed.
passed to third reading.
Caption ordered amended to conform to body of bill.
MAR 17 1977 Senate and Constitutional 3-Day Rules suspended by vote of
27 yeas, 1 nays to place bill on third reading and final passage.
MAR 17 1977 Read third time and passed by a viva-voce vote
27 yeas, 1 nays. passed

OTHER ACTION:

Betty King
Secretary of the Senate

Mar. 17, 1977 Engrossed
Mar. 21, 1977 Sent to HOUSE

Patsy Spaw
ENGROSSING CLERK

MAR 21 1977

Received from
the Senate

Betty Murrays
Chief Clerk, House of Representatives

READ 1st TIME
AND REFERRED TO COMMITTEE ON

Constitutional Amendments

MAY 4 1977 Favorably
Reported unfavorably (As Amended), Sent to Printer MAY 6 1977
5:30 PM
MAY 6 1977 Printed And Distributed 10:57 pm
MAY 9 1977 Sent To Committee On Calendars 9:45 am

DATE MAY 11 1977

READ AND ADOPTED

amended Betty Murrays
CHIEF CLERK
HOUSE OF REPRESENTATIVES
104 yeas 36 nays 1 pm by recorded vote

RETURNED TO SENATE MAY 12 1977

MAY 12 1977 RETURNED with amendment
FROM HOUSE

MAY 13 1977 Senate concurred in House
ments by the following
yeas, 0 nays

27

1977 MAY -6 PM 10: 57
HOUSE OF REPRESENTATIVES

James P. ...